

**IN THE UNITED STATES DISTRICT
COURT FOR THE DISTRICT OF
PUERTO RICO**

In Re:

**THE FINANCIAL OVERSIGHT
AND MANAGEMENT BOARD
FOR PUERTO RICO.**

**PROMESA
Title III**

No. 17 BK 3283-LTS

As representative of

**THE COMMONWEALTH OF
PUERTO RICO, Et Als.,**

(Jointly Administered)

Debtors.

**Designated Claim Number:
179755**

Designated Claimant(s): Rivera Colon, Nestor

**NESTOR RIVERA COLON, AND 84
RESIDENTS OF VILLA BLANCA
CALLE ZAFIRO RESIDENTS.**

Plaintiffs v.

**ENG. MIGUEL A. TORRES DÍAZ,
ET ALS. (Municipality of Caguas,
PR Highway and Puerto Rico
Department of Public Works**

**NESTOR RIVERA COLON ET ALS
VS MUNICIPIO DE CAGUAS,
DEPARTAMENTO DE OBRAS
PUBLICAS Y AUTORIDAD DE
CARRETERAS**

CASE NO. 2015-1048 (DRD)

**CIVIL
ACTIO
N
CIVIL
RIGHT
S**

JURY TRIAL REQUESTED

(EDP-2017-0334 (801))
Tribunal Superior de Caguas

**MOTION TO COMPLY WITH ORDER TO
REQUEST FOR INFORMATION AND
DOCUMENTS**

COMES NOW the above-named Plaintiffs, represented by the undersigned counsel, and

I. INTRODUCTION

1. On March 27, 2023, The Honorable Court ordered Designated Claimant Nestor Rivera Colon to provide Information and Documents about the above case.
2. On 1957 Villa Blanca Community was constructed as an Urban Residential Area, Residential project, in the Municipality of Caguas, Puerto Rico, composed of several hundred homes, strictly protected by federal Constitutional Principles: Local laws, Regulations and Jurisprudential Opinions from Noise and Air Pollution.
3. On or about 2004, initiated by Mayor of Caguas Angel O. Berrios, executed by Mayor William Miranda Marín Administration together with the Puerto Rico Highway Administration (PRHA-ACPR) and Public Works and Transportation Department of Puerto Rico (PWDPR-DOTPPR), planned and converted a residential Zafiro Street into highway José Garrido causing severe noise and air pollution, floods that required additional insurance, loss of some 35% of their homes property value, with an uncontrolled access causing disturbances and criminal acts affected their normal life.
4. Plaintiff Nestor Rivera Colon and 84 residents from Villa Blanca Residential Community protested to Municipal Officers who promised to solve the situation. But nothing was done. Then wrote letters to the mayor, to the Municipal Assembly, to the Puerto Rico Highway Administration, to the Public Works Department of Puerto Rico, to La Fortaleza Governors House, Planning Board, Quality Control Board and other entities. But nothing was done. Then formal legal Notices were delivered. Then filed a Federal Civil Complaint (**CASE NO. 2015-1048 (DRD)**) asking for reparation of damages and Injunctive reliefs. The Federal Case was Dismissed for Lack of Subject Matter Jurisdiction. Then Plaintiffs filed a Local Complaint (EDP-2017-0334 (801)) for damages and Injunction which was suspended and included in this Bankruptcy Case. Both cases were suspended from 2017 to 2023. The claim for damages is at this Bankruptcy Federal Level (**Claim Number: 179755**) and the injunctive claims at the

- II. The Documental basis of the Case is included in the Exhibits attached.
- III. The Documentation related to the Case are included in the other Exhibits attached.
- IV. The basis of the amount claimed by Plaintiffs is included below and in the Complaints.

V. STATEMENT OF THE CASE

4. On January 21, 2015, Plaintiffs filed this class action based on the Quiet Communities Act of 1978, as amended (hereafter “the Quiet Communities Act”). (Pub. L. No. 95-609 - 42 USC 4901ss.) Among other allegations, the Complaint stated:

The case at bar is filed as a class action in representation of all current and past homeowners in the urban area called Villa Blanca, at the Municipality of Caguas, Puerto Rico, and their families and others who occupy or used to occupy or have abandoned homes, in Villa Blanca, who are, or have been suffering for an extraordinary, unreasonable, illegal, loud noise caused by the conversion of a Urban Community Street in a residential area, into a Highway/Avenue without the Federal requirements and conditions established in the Quiet Community Act. A copy of that Notice is attached as Exhibit I and made part of the Complaint (Dkt. 1). Prior to the filing of the Complaint a Notice to Sue was notified and not solved by the Defendants. A copy of this Notice was included as Exhibit I of the Complaint. *See, Complaint ¶2*

Villa Blanca was constructed about sixty (60) years ago and was the second urban community in Caguas, Puerto Rico, and the original Model Design for Urban Communities in Puerto Rico, as described by its residents. *See, Complaint ¶10*

On or about 2004, the ACT, a semi-public entity with lawful authority as a private entity, and an administrative division of the DTPW, with the approval and collaboration of the Municipality of Caguas, planned, designed, and worked to build a road to connect the Puerto Rico Toll Expressway, known as Highway 30, with Puerto Rico Road #1 in Caguas. This was later extended to include a connection with Puerto Rico Expressway

#22. The design called for the widening of what was then Zafiro Street in the Municipality of Caguas, then a very narrow street which cut through the middle of Villa Blanca, to be used as the connecting road between the three highways. As part of the original plan, around eighty-four (84) houses in Villa Blanca would be expropriated. *See, Complaint ¶10*

Shortly thereafter, work on the widening of Zafiro Street started and ultimately finished. Zafiro Street became José Garrido Avenue, and it was opened to connect Highways 1, 22 and 30. This caused the traffic cut through Villa Blanca to increase in both volume and weight. After the change, now an exponentially greater amount of traffic passed through the middle of Villa Blanca and those vehicles now included trucks and other heavy-load vehicles. In fact, Zafiro/Garrido Avenue is now one of the most used streets in the Municipality. However, the 84 houses located in Zafiro/Garrido Avenue were never expropriated. *See, Complaint ¶11*

Plaintiffs have been filing complaints at the ACT, DTPW and the Municipality of Caguas since work on Zafiro/Garrido Avenue began and before their front street as one of the most used avenues of Caguas. Complaints and requests for administrative intervention have also

been filed before the JCA and on March 12, 2012, the EPA and the Puerto Rican Ombudsman Office, all without any positive results. Complainants have been given numerous excuses and promises to study and address the situation, but no results have been rendered and the situation has endured. *See, Complaint ¶12*

Villa Blanca had a controlled-access entrance through Acerina Street, and Zafiro Street had an entrance to the Plaza Villa Blanca Shopping Center that used to be closed during the night, from 9:00pm to 6:00am. This helped maintain Villa Blanca as a peaceful and quiet residential community where residents could live in tranquility and children could play in front of their houses. But when the ACT, the DTPW and the Municipality of Caguas opened an entrance directly into Zafiro Street and made the conversion to José Garrido Avenue, sound decibels that were well within the acceptable parameters under the Quiet Communities Act of 1978, as amended, of 45 decibels jumped to 67-85 decibels. This affected the homes at both sides of what was a narrow street and now was the Zafiro/Garrido Avenue. Residents went from living in a peaceful environment to an unbearable noise that forced neighbors to close the front part of their homes, and even then, it is almost impossible to undertake normal activities such as having conversations, hear the radio, watch television, or even sleep. *See, Complaint ¶13*

Aside from the uncontrollable noise, the residents have problems with their entrance, parking area and some with pluvial metal covers which cause additional noise and vibrations inside their homes. This situation is even worse at night-time when a restful sleep is almost impossible to achieve. This situation has also caused the Plaintiffs' homes' values to plummet. *See, Complaint ¶14*

The families that had bought their homes on a peaceful residential community and who make up the proposed class in the instant case have been requesting the ACT, the DTPW and the Municipality of Caguas to close the access to the small Zafiro/Garrido Avenue, or to expropriate their homes. This has lowered the value of their homes, some have been obliged to sell for a fraction of the former value or abandon their homes, and all have suffered substantial emotional and mental sufferings, substantial economic losses, incurred in construction expenses to try to reduce the noises, and expenses for illnesses and emotional treatment. *See, Complaint ¶15*

The EPA and the JCA have reviewed the situation, undertaken many noise studies, and have established that the Villa Blanca Plaintiffs confront an unbearable noise condition 24 hours a day and have done so continuously for some 10 years. Plaintiffs' requests for aid to the Municipal Government of Caguas, the Governor's Office, the Local Legislature, the ACT, the DTPW, the Ombudsman Office and other public entities have all been fruitless. These entities have all at one time or another expressed the need to do something but have expressed that they lack either the authority or the money to provide any help or expropriate the property. *See, Complaint ¶16*

Plaintiffs appear before this Honorable Court as a last resort claiming violations under the Quiet Communities Act of 2078, as amended, and a violation of their constitutionally protected rights against infringements to their life, liberty and/or property without due process. Plaintiffs also request supplemental jurisdiction for local constitutional rights and Civil Code rights to redress for damages. Plaintiffs request a Preliminary and Permanent Injunction to close the Zafiro/Garrido Avenue except for Villa Blanca residents and related services or to expropriate their homes at a market value price; and compensation of \$200,000.00 per home from Defendants for damages. *See, Complaint*

¶17

VI – PRINCIPIOS CONSTITUCIONALES, LEYES Y REGLAMENTOS VIOLADOS:

En la Demanda Federal y la radicada en el Tribunal Superior de Caguas, se describen los principios Constitucionales, legales y reglamentarios aplicables a este caso. Por ejemplo:

Resumen de la Constitución de Puerto Rico en el Artículo 7 y 9:

Sección 7. Derecho a la vida, a la libertad y al disfrute de la propiedad; pena de muerte, no existirá; debido proceso; igual protección de las leyes; menoscabo de contratos; propiedad exenta de embargo. Se reconoce como derecho fundamental del ser humano el derecho a la vida, a la libertad y al disfrute de la propiedad. No existirá la pena de muerte. Ninguna persona será privada de su libertad o propiedad sin debido proceso de ley, ni se negará a persona alguna en Puerto Rico la igual protección de las leyes. No se aprobarán leyes que menoscaben las obligaciones contractuales. Las leyes determinarán un mínimo de propiedad y pertenencias no sujetas a embargo. ...

Sección 9. Justa compensación por propiedad privada. No se tomará o perjudicará la propiedad privada para uso público a no ser mediante el pago de una justa compensación y de acuerdo con la forma provista por ley. No se aprobará ley alguna autorizando a expropiar imprentas, maquinarias o material dedicados a publicaciones de cualquier índole. Los edificios donde se encuentren instaladas sólo podrán expropiarse previa declaración judicial de necesidad y utilidad públicas mediante procedimientos que fijará la Ley, y sólo podrán tomarse antes de la declaración judicial, cuando se provea para la publicación un local adecuado en el cual pueda

instalarse y continuar operando por un tiempo razonable ...

La Ley 92 del 2005, que asigna a la Junta de Planificación velar por su cumplimiento, establece para la protección de las urbanizaciones el que no se puedan establecer avenidas de alto tráfico vehicular a menos de 50 metros (unos 164 pies) del solar de las residencias para la protección de los residentes de la contaminación de gases y ruidos.

El Municipio de Caguas aprobó una Ordenanza Municipal prohibiendo y rotulando en la CZafiro en tránsito de camiones, pero no requieren su cumplimiento por lo que nadie le hace caso.

La legislación federal citada en las Demandas, el Quite Community Act, Act, lo que aparece en los Panfletos de la EPA, declara como Zonas Silenciosas las Urbanizaciones, Zonas Residenciales, Escuelas y Hospitales.

La Junta de Calidad Ambiental identifica niveles de sonidos por máximo de decibeles en las zonas residenciales con un máximo de 50 decibeles diurnos y 45 decibeles nocturnos, similar a un Hospital.

Estas disposiciones Constitucionales, Legales y Reglamentarias han sido violadas flagrantemente por las Partes Demandadas en este caso.

VII – Resumen de los Efectos Negativos en los

Residentes de la Calle Zafiro:

Los principales efectos negativos sobre los residentes de la Calle Zafiro de la Urbanización Villa Blanca de Caguas han sido: La contaminación por ruido, gases y vibraciones 24/7 todo el tiempo han sido graves destruyendo techos, paredes y pisos.

Problemas de Salud adversos, ansiedad, alta presión, problemas respiratorios (gases, hollín, polvorín), interrupciones en su sueño, interferencia para comunicarse y escuchar la radio o ver televisión; la devaluación de la propiedad hasta un 35% según expertos; problemas de inundaciones; problemas de acceso en entrar y salir de sus hogares. Estos y problemas similares causados por la solicitud desautorizada del Municipio de Caguas a DTOP y Autoridad de Carreteras según se prueba de los documentos incluidos en esta Moción.

VIII - DOCUMENTS AND INFORMATION REGARDING THE BASIS OF THE CASE

(There are dozens of Videos that we have not been able to include with this Motion that will be available at a Virtual or Presential Hearing by Plaintiffs)

Exhibit 1 – Initial requests to the Municipality of Caguas, Puerto Rico Highway Administration and Puerto Rico Department of Public Works about the illegal conversion of a Residential Community Zafiro Street into a José Garrido Highway in Villa Blanca Close Community

Exh-I-1	Exh-I-1 - 5-4-2007-Permiso de la Junta de Calidad Ambiental a DTOP/Autoridad de Carreteras a construcción Carretera 156 al Expreso 1 – lo que fue violado por la Autoridad de Carreteras a solicitud del Municipio de Caguas - advirtiéndole no se afecten las Comunidades cercanas por los ruidos y gases del tránsito vehicular
Exh-I-2	Exh-I-2 - 3-12-2012- Querella presentada ante la Oficina Permisos del Municipio por Néstor Rivera Colon en Representación de los Vecinos de la Calle Zafiro de la Urbanización Villa Blanca; por la conversión de la Calle Zafiro en Avenida José Garrido destruyendo la paz, tranquilidad y disfrute de la vida y propiedad de los residentes y propietarios de las 84 viviendas.
Exh-I-3	Exh-I-3 - 2-21-2013- Estudio de Calidad Ambiental sobre la Calle Zafiro en Villa Blanca dirigida al Municipio de Caguas – Recomendaciones para la Solución del Problema que no incluyeron el convertir la Calle Zafiro en la una Avenida.
Exh-I-4	Exh-I-4 - 5-15-2013- Notificación de Querella al DTOP - por Néstor Rivera Colon en Representación de los Vecinos de Villa Blanca Calle Zafiro
Exh-I-5	Exh-I-5 - 11-12-2013 Correo electrónico del Planificador Guillermo Rivera del Municipio de Caguas y Contestación de EPA – Que el Proyecto de

	Expropiación se desistió por ser muy costoso
Exh-III-6	Exh-6 - 1-9-15 carta de 4 mayo 2007 - dirigida por JCA al DTOP sobre pe
Exh-I-7	Exh-I-7 - 3-31-16 Judgment in the Federal case for lack of subject matter jurisdiction

Exhibit II – The Federal District Court original Complaint and Amended Complaint

Exh-II-1	Exh-II 1 - 01-21-15-Federal Complaint Caguas – Description of the Constitutional, Legal and Regulations violations by Defendants by converting Villa Blanca Community Street Zafiro into a José Garrido Highway causing severe and continuous damages to 84 residents by illegal noise and gas pollutions, uncontrollable traffic, loss of value to their property and personal difficulties.
Exh-II 2	Exh-II 2 - 6-8-16-2nd-Complaint Caguas- the same as the original Complaint and adding Defendants.
Exh-II 3	Exh-II 3 - 3-31-16-Opinion & Order -Dismissal of the case for No-Subject Matter Jurisdiction in the Federal Court.
Exh-II 4	Exh-II 4 - 12-12-17- Demanda-Villa Blanca en Tribunal Superior de Caguas, Puerto Rico – Descripción de los Derechos Constitucionales, Legales, Reglamentarios violados por el Municipio de Caguas, el Departamento de Obras Públicas (DTOP) y la Autoridad de Carreteras de Puerto Rico (AC) al convertir la Calle Zafiro en Avenida José Garrido causando severos y continuos danos por los ruidos ensordecedores, los gases de los camiones y automóviles, al multiplicarse el tráfico causando problemas mentales, emocionales, físicos, y la pérdida de la tranquilidad personal y del valor de sus propiedades.
Exh-II 5	Exh-II 5 - 12-20-17-Mocion para Paralizar el Caso Judicial por la Autoridad de Carreteras – Por Quiebra Federal
Exh-II 6	Exh-II 6 - 1-16-18-Sentenciaa Parcial Paralizando el caso a solicitud de la Autoridad de Carreteras (AC) ser incluido en el Caso de la Quiebra del Gobierno de Puerto Rico.
Exh-II 7	Exh-II 7 - 3-5-18-Orden TPI-No Paralizar Caso en cuanto a la solicitud de Cese y Desista, esto es los Remedios del Injunction.
Exh-II-8	Exh-II-8 - 02-05-2015-Sworn Statement by Nestor Rivera - Zafiro Corversion Causes Health Problems
Exh-II-9	Exh-II-9- 5-17-17 Opinion-Order-Granting Mot Dimiss
Exh-II-10	Exh-II-10- 3-31-16-JudWP-No-Matter Jurisd-
Exh-II-11	Exh-II-11 -Ejemplo Listados Demandantes CZafiro
Exh-II-	Exh-II-12- Plano del Municipio de Caguas

12	Document Page 9 of 11
Exh-II-13	Exh-II-13- Segundo Plano del Municipio de Caguas

Exhibit III – The Documents to substantiate the Legal allegations and basis for the requested claims.

Exh-III - 1	Exh-III – 1 - 4-8-23-Ejemplo de Fotos de Villa Blanca en Caguas. Hay una docena adicionales. Demuestran el tráfico de la CZafiro convertida en Avenida José
Exh-III - 2	Exh-III – 2 - Plano Zonificación Caguas
Exh-III - 3	Exh-III – 3 - 1-15-15 fotos rótulos carretera
Exh-III - 4	Exh-III – 4 - 2-21-2012-Estudio Ruido EN LA Calle de la Urbanización Villa Blanca por la Junta de Calidad Ambiental (JCA) que demuestra claramente las violaciones a los derechos Constitucionales y Legales de los 84 hogares/Vecinos
Exh-II - 6	Exh-III-6 - 08-18-2011-Autoridad Carreteras Contesta al Ombudsman sobre C-Zafiro
Exh-III - 7	Exh-III-7 - 10-24-2011-Solicitud Estudio Ruidos C-Zafiro Municipio a JCA
Exh-III - 8	Exh-III—8 - 08-19-2011-Carta Aut-Carreteras al Ombudsman indicando responsables
Exh-III - 9	Exh-III-9 - 09-16-2011-Solicitud Certificación Calle Zafiro
Exh-III - 10	Exh-III-10 - 09-26-2011-Certificacion Municipio Caguas Calle Zafiro
Exh-III - 11	Exh-III- 11 - 11-15-2021-Solicitud Legislatura Municipal atienda Problema en VB
Exh-III - 12	Exh-III-12 - 03-28-2012-MCaguas Solicita A JCA Estudio por Siete Días
Exh-III - 13	Exh-II-13 - Listados Demandantes CZafiro
Exh-III - 14	Exh-II-14- Plano del Municipio de Caguas
Exh-III - 15	Exh-II-15 - 08-16-2020-Municipio de Caguas Certifica No Tienen Expediente CZafiro-Ave José Garrido
Exh-III - 15	Exh-II-15 - 08-16-2020-Municipio de Caguas Certifica No Tienen Expediente CZafiro-Ave José Garrido
Exh-III - 16	Exh-III-15 ---08-05-2009-EPA Federal Explica Efectos Salud Noise Pollution
Exh-III – 16	Exh-III-16--03-28-2012- Notificación JCA no a nuevo estudio por 7d
Exh-III - 17	Exh-III-17 - 03-28-2012-Negativa de JCA a Estudio td hasta q Cumplan
Exh-III - 18	Exh-III-18-- 05-10-2012-Oficina Permisos informa no tiene jurisdicción y q Corresponde a JCA

Exh-III - 19	Exh-III-19-- 05-10-2012-Oficina Permisos informa no tiene jurisdicción y q Corresponde a JCA
Exh-III - 20	Exh-III-20 - 05-16-2012-Evaluacion DTOP sobre Calle Zafiro
Exh-III - 21	Exh-III-21 - 11-12-2013-Federal EPA establece violaciones en CZafiro
Exh-III - 22	Exh-III-22 - 09-10-2018-Solicitud Reunión Emergencia con directora Junta Calidad Ambiental
Exh-III - 23	Exh-III-19A - 05-16-2012-Querella Calle Zafiro a DTOP
Exh-III - 24	Exh-III-24 - 09-20-2021-La Fortaleza por Querella Ordena a Junta Planificación Corrija Situación VB
Exh-III - 25	Exh-III-25 - Publicación EPA Federal Sobre Efetos a Salud Noise Level 45 decibeles Residenciales
Exh-III - 26	Exh-III-26 - Publicación Junta Calidad Ambiental con 45 Decibeles en zonas silenciosas lo que violaron Villa Blanca
Exh-III- 27	Exh-III-27-Varias Solicitudes a Municipio, Tribunal y Agencias por Problemas en CZafiro
Exh-III - 28	Exh-III - 28 - 08-05-2009-EPA Federal Explica Efectos Salud Noise Pollution
Exh-III - 29	Exh-III-29-Varias Solicitudes al Tribunal Municipal - CZafiro
Exh-III - 30	Exh-III-30- Mayo 15, 2022 - Balacera en Caguas por CZafiro - Dos Muertos
Exh-III - 31	Exh-III-31 - Por Fiona Inundaciones CZafiro Villa Blanca
Exh-III - 32	Exh-III-32-03 -30-2023-Asesinan frente a su residencia CZafiro #16
Exh-III - 33	Exh-III-33 - 09-18-2022-Rescate Egida en CZafiro Villa Blanca Caguas
Exh-III - 34	Exh-III - 34 - 02-05-2015-Sworn Statement by Nestor Rivera - Zafiro Corvertion Cause Health Problems

WHEREFORE, Plaintiffs respectfully request from the Honorable Court to approve the evidentiary documents attached as the basis for the Complaint and the basis for the estimated amount owed for the claims by Zafiro Street Villa Blanca residents.

I HERE BY CERTIFY that on this date a true and act copy of the foregoing has been served notice by E-Mail through the ECF System to Defendants' attorneys of record: counsels of record.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this April 19, 2023.

s/Francisco R. González-Colón

FRANCISCO R. GONZALEZ COLON

USDC No. 116410

FRANCISCO R. GONZÁLEZ LAW OFFICE

1519 PONCE DE LEÓN AVE. 805

FIRST FEDERAL BLDG.

SAN JUAN, P.R. 00909

Tel. (787) 723-3222 FAX 722-7099

bufetefrgonzalez@gmail.com